

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Raymond and Donna Forsythe,
Petitioner-Appellants,

v.

Dickinson County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-30-0596
Parcel No. 03-09-204-019

On May 2, 2011, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The appellants, Raymond and Donna Forsythe, were self-represented and requested the appeal take place without a hearing. The Dickinson County Board of Review designated Assistant County Attorney Lonnie Saunders as its legal representative. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Raymond and Donna Forsythe, lessees of residential property located at 24671 McClelland Lane, also known as Lot 83 McClelland's Beach, Spirit Lake, Iowa, appeal from the Dickinson County Board of Review decision reassessing their property. The real estate was classified residential for the January 1, 2010, assessment and valued at \$264,300; representing land only. This was a change from the 2009 assessment of \$136,200. Forsythes protested to the Board of Review on the ground that the property was not equitably assessed compared to other like properties under Iowa Code section 441.37(1)(a). In response to the protest, the Board of Review notified Forsythe the January 1, 2010, assessment was not changed stating, "insufficient evidence presented to prove assessment excessive. Stated properties were not sufficiently comparable to prove inequity."

Forsythes then appealed to this Board on the same ground. Forsythe seeks \$57,300 in relief and values the land at \$207,000.

According to the property record card, the subject lot is located on the north end of Big Spirit Lake. The lot has 57.97 feet of lake frontage, 58 feet on the road and the depth is 139.83 feet on one side and 134.49 feet on the other side. The depth factor is .97 and the effective front foot is 56.24.

Forsythes submitted an exhibit in the certified record listing the land assessment of other lakefront properties on McClelland Beach and Shore Acres based on a per linear-foot of shore frontage value and a per square-foot value. We note they used a different method of calculating the unit values of the properties than that used by the assessor. Forsythes simply divided the land assessment by the actual lakefront footage to arrive at per front-foot values and per-square foot values. The front foot method failed to apply any depth or shape factor to the properties.

Forsythes included an appraisal report dated September, 2007, prepared by Todd Kramer that values the improvements at \$130,000. In the addendum of the appraisal, there is a statement that indicates that he would estimate the front foot value to \$4000 per front foot. This would indicate a land value of \$232,000. The Appeal Board notes this value was calculated on only one sale and the listing of others that go back to 2005.

The Board of Review provided an explanation of the method used for calculating land values based on front footage. The dimensions of the lot were used to calculate the effective front foot of lakeshore by adjusting the actual footage by a depth factor, then multiplying the result by a unit price. The assessor applied a unit price of \$5000 per effective front foot in this lake area. This figure would then be adjusted if a pie-shaped, lakeshore or other adjustment was needed.

The Board of Review also provided a list of twenty-four land sales that occurred in 2007 and 2008 when the properties were first made available for purchase by leaseholders. The lots range from 35.23 effective front feet to 95 effective front feet. Sales prices ranged from \$140,000 to \$364,950, or

\$5000 per effective front foot. The 2010 land assessments for these properties range from \$118,400 to \$291,500, or \$3977 to \$4700 per effective front foot and a median of \$4366 per effective front foot. We note the 2010 assessment of every parcel listed was less than the 2007-2008 purchase prices.

Reviewing the record, we find the preponderance of the evidence does not support the Forsythes' contention their assessment is inequitable. We find the Board of Review's explanation of land pricing was reasonable and the method was applied uniformly to other lakefront lots in Forsythes' area. Therefore, we believe the assessment reflects an equitable valuation of the Forsythes' property as of January 1, 2010.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.*

If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2).

The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

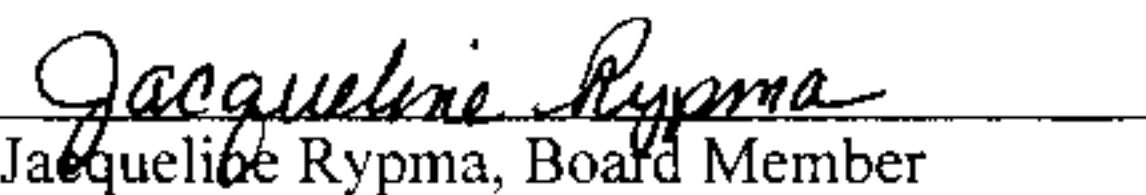
To prove equity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Striver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Forsythes failed to prove inequity under either of these methods.

Viewing the record as a whole, we determine that the preponderance of the evidence does not support the Forsythes' claim of inequitable assessment as of January 1, 2010. We, therefore, affirm the property assessment as determined by the Board of Review. The Appeal Board determines the property assessment value as of January 1, 2010, is \$264,300.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment as determined by the Dickinson County Board of Review is affirmed.

Dated this 29 day of June 2011.


Richard Stradley, Presiding Officer

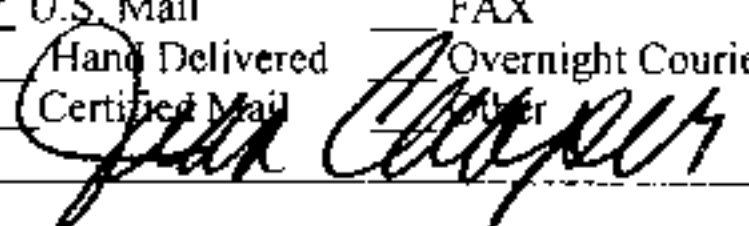

Jacqueline Rypma, Board Member


Karen Oberman, Board Member

Copies to:

Raymond and Donna Forsythe
24671 McClelland Lane
Spirit Lake, IA 51360
APPELLANTS

Lonnie Saunders
Assistant Dickinson County Attorney
PO Box E
Spirit Lake, IA 51360
ATTORNEY FOR APPELLEE

| | |
|--|---|
| Certificate of Service | |
| The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-29</u> , 2011. | |
| By: | <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX |
| | <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier |
| | <input type="checkbox"/> Certified Mail <input type="checkbox"/> Other |
| Signature |  |